UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,240	03/30/2004	Erik de la Iglesia	006897.P001	8139

78855 7590 11/09/2009			

Patent Capital Group
6119 McCommas Blvd
Dallas, TX 75214

EXAMINER
SHAW, PELING ANDY

ART UNIT	PAPER NUMBER
2444	

NOTIFICATION DATE	DELIVERY MODE
11/09/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

thomasframe@patcapgroup.com
roseanne.cisneros@patcapgroup.com
patbradford@patcapgroup.com

	Application No.	Applicant(s)
Advisory Action ***Before the Filing of an Appeal Brief***	10/815,240	DE LA IGLESIA ET AL.
	Examiner	**Art Unit**	
	PELING A. SHAW	2444	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>20 October 2009</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.

   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

      Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b)☐ They raise the issue of new matter (see NOTE below);

   (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

      NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: <u>*none*</u>.

   Claim(s) objected to: <u>*none*</u>.

   Claim(s) rejected: <u>*1-20*</u>.

   Claim(s) withdrawn from consideration: <u>*none*</u>.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u>

12. ☒ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). <u>10/20/09</u>

13. ☐ Other: _____.

/Peling A Shaw/
Examiner, Art Unit 2444

2

 Continuation of 11. does NOT place the application in condition for allowance because: Applicant has argued the limitation of "... the packets representing a document that includes the objects, wherein the document is captured based on a capture rule that specifies the objects, and wherein a determination is made as to whether to discard or to store the objects of the document." (see 3rd paragraph on page 8 through 3rd paragraph on page 9 of current amendment)

The capture of the document is specified as to discard or store the objects of the document based on a capture rule.

Rowley has further described (column 1, line 66-column 2, line 9) selecting a portion of the packets captured by a sniffer during a giving time interval.

Rowley has described (column 4, lines 29-34) that packets selected, captured and sorted into the protocol sorted list, the data from the selected packets are reconstructed into data and script files for web pages and other contents.

Rowley has described (column 3, lines 62-67) packet not needed for the subsequent reconstruction of the network communication session is not included in the protocol sorted list, e.g. DN lookup request packets, error packets or corrupted packets. Rowley has taught and suggested some rule is applied to select, capture and store the packets for the reconstruction of network communication session.

Examiner has further reviewed the claim rejections as per items and items 'a' through 'd' in section 5 and item 'a' in section 8 of the Response to Argument of Office Action mailed on 08/20/2009. Applicant has argued similarly as per last paragraph on page 7 through 1st paragraph on page 8 of amendment received on 04/30/2009. Examiner has shown that Rowley and Saulpaugh have disclosed applicant's claimed invention as presented.
.